



March 12, 2004

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave, N.W.
Washington, D.C. 20551

RE: Docket Number R-1176

Dear Ms. Johnson:

We are a \$3.3 billion bank with 60 banking centers located in Northern Indiana and Southwest Michigan. We have approximately 120,000 customers who have 450,000 deposit and loan accounts with our bank.

We appreciate the opportunity to express our comments and concerns regarding the Check 21 proposal and Regulation CC.

Section 229.2 (g) – Substitute Check

We would like additional clarification on the substitute check definition regarding MICR read errors. MICR read errors should be classified as legal checks just like traditional checks with encoding errors.

Section 229.35(a), 229.38(d) and Appendix D - Indorsement

We would like clarification on the indorsement standards. We recommend an industry standard for font size and location of any stamp or endorsement on the front of a substitute check. In addition, in order to protect the actual face of the check image, we recommend an industry standard that would not allow any type of stamp or endorsement on the face of the check image.

Section 229.51 – General Provisions Governing Substitute Checks

We agree that a bank warranty should be another prerequisite of legal equivalence.

Section 229.52 – Substitute Check Warranties

We believe using information from a check to create an ACH transaction should be a payment covered by substitute check warranties.

Also, how long would a paying bank have to return a counterfeit substitute check if the original check would have helped detect the counterfeit?

Section 229.53 – Scope of Indemnity

In the example on pages 76 and 77 there is a statement that says the paying bank can assert an indemnity claim against the presenting bank. What is the time period (statute of limitations) that the indemnification will apply? With an original check it is 24 hours after receipt. Will this be extended for a substitute check or will the time period be the same as an original check?

The regulation should require that original checks be retained for a time period at least as long as the indemnity applies. If the original is destroyed, how would anyone ever be able to prove that they could have done better without comparing it to the original check since it would be needed as evidence? The original is also necessary to determine the disposition of a warranty claim that the substitute check does not accurately represent the information on the front and back of the original check.

Also, we recommend that a time frame for the indemnification be included in the regulation.

Section 229.54 – Expedited Recredit for Consumers

Regarding the procedures for making claims, we feel the work to recalculate interest on a return check during the expedited recredit process will be burdensome to the bank on small dollar transactions. Also, will there be a record retention requirement on claims? If so, retention requirements should be included in the final regulation.

Does section 229.54 on expedited recredit only apply to a natural person or does it also apply to persons as defined in the regulation?

Appendix C – Model Forms

The model language under Our Responsibilities for Handling Your Claim makes reference that “...an original check or a better copy of an original check will be provided.” We recommend eliminating this language from the model form since an original check or a better copy may be impossible to produce.

Other Areas Requesting Comments

- Remotely-created Demand Drafts

We would like to see UCC revisions incorporated into all areas of Regulation CC, not just in the area of remotely created demand drafts.

- Use of Plain Language

We would like the law to be clearer in stating whether non-consumer accounts are included or excluded. Also, the definitions between consumer, customer and persons are somewhat confusing. And, we would like to know if there is a difference between a person and a natural person

Under 229.2(aaa) in the commentary, one of the examples states that a copy of an original check that accurately represents all the information on the front and back of the original check as of the time of truncation always would constitute a sufficient copy. How will anyone know if a copy accurately represents all the information on the front and back of the original check as of the time of truncation if the original check is not available?

An area that was not addressed in the proposal relates to returned checks. Currently, industry standard is to stamp the reason for return on the face of the check before returning it to the bank of first deposit. For example, insufficient funds, closed account or stop payment. Please provide guidance on the location on substitute checks these stamps should be placed.

We strongly feel that there must be a defined standard for the quality and the size of the image on a substitute check. We have enclosed a copy of what we believe is an inferior substitute check. Our concern is that without well defined standards and mandatory compliance to those standards by reconverting banks, poor quality substitute checks will create additional work for the bank to satisfy customer demands for acceptable check images or original checks.

Although the law states that Check 21 goes into effect as of October 28, 2004, we request that compliance with the final rule be delayed until at least May 1, 2005 as this will give us time to analyze the final regulation you will be publishing. It will then give us time to develop all of the customer communication pieces this law will demand. We would like to have at least six months from the publication of the final rule.

Thank you for allowing us the opportunity to respond to this proposal. If you have questions or require additional clarification, please contact me at 574-235-2574.

Yours truly,

1st SOURCE BANK

Peggy Voorheis
Consumer Compliance Officer

Enclosure:

This is an actual document we received.

THIS DOCUMENT CONTAINS SECURITY FEATURES. - SEE BACK FOR DETAILS

71-1212/718 1212/718		6589
DATE <u>3/2/2004</u>		
PAY TO THE ORDER OF <u>Household Credit Services</u>		\$ <u>250.00</u>
<u>Two-hundred & Fifty</u>		00/100 DOLLARS
Source: <u>Acct #</u>		
Bank		
MEMO <u>Due 3/6/04</u>		
⑆071212128⑆		6589

SUBSTITUTE CHECK

This is a legal copy of your check. You can use it the same way you would use the original check.

0040305

SIGNATURE HAS A COLORED BACKGROUND • BORDER CONTAINS MICROPRINTING

⑆071212128⑆ 6589 ⑆0000025000⑆